

REMARKS

Applicants respectfully request reconsideration and allowance of this application in view of the foregoing amendments and the following remarks.

1. Status of the Claims

Claims 1, 4-12, and 18-34 are pending in the application (claims 2-3 and 13-17 were previously cancelled). Claims 30-34 were allowed. Claims 25-29 were indicated as being allowable if rewritten in independent form. Applicants appreciate the indication of allowability. Claims 1, 18 and 24 were rejected under 35 U.S.C. §112 as allegedly containing new matter. Claims 1, 9, 19, and 21-23 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Anderson (U.S. Patent No. 4,592,485) in view of Kurokawa (U.S. Patent No. 5,230,440). Claims 10-12 were rejected as allegedly being unpatentable over Anderson in view of Kurokawa and further in view of Covington (U.S. Patent No. 4,142,863). Claims 4, 5, 7 and 8 were rejected as allegedly being unpatentable over Anderson in view of Kurokawa and further in view of Kaufman (U.S. Patent No. 5,335,816). Claims 6, 18, 20 and 24 were rejected as allegedly being unpatentable over Anderson in view of Kurokawa and Kaufman and further in view of Mishina (U.S. Patent No. 5,555,965).

Independent claims 1, 18 and 24 are currently amended to recite a freezer compartment maintainable at a freezing temperature for storing frozen food rather than a refrigerated freezer compartment. Support for the amendments is found in paragraphs 0021 - 0023, for example. Claims 18 and 24 are also amended to clarify that the removable cartridge is positioned in (method claim 18) or positionable within (device claim 24) the freezer compartment. Minor amendments were made to claim 30 that do not materially affect claim scope. Support for these amendments is found at, e.g., paragraphs 0023 and 0033. No new matter has been added.

2. 35 U.S.C. 112 Rejections

The Examiner rejected claims 1, 18 and 24 on the grounds that the terms "a refrigerated freezer compartment" and/or "refrigerated compartment," which were added

to those claims in the last amendment, are not disclosed in the specification and thus constitute new matter. However, paragraph 0022 of the specification specifically and expressly refers to "a freezer compartment 28 inside the automated freezer 20" and paragraph 0023 also refers to the "freezer compartment 28." While not explicitly stating that the freezer compartment is "refrigerated," it is well known that a freezer compartment is refrigerated, and paragraph 0021 of the specification mentions that the freezer can use forced air convection or can be a cold wall freezer – both of which use refrigeration. Nevertheless, to clarify the claims and expedite prosecution of the application, claims 1, 18 and 24 have been amended to recite "a freezer compartment maintained at a freezing temperature for storing frozen food" in lieu of a "refrigerated compartment." Consequently, the new matter objection has been overcome.

3. The 35 U.S.C. 103(a) Rejections

In summary, for the reasons explained below in detail, the claims are patentable because the art relied on does not teach, suggest or disclose the claimed invention including having at least one member ... retain[ing] a portion of said at least one item in the compartment maintained at a freezing temperature for storing frozen food after removal of the item from the cartridge and removal of the cartridge from the freezer compartment.

Anderson, the primary reference in all of the Section 103 rejections, discloses a vending machine that stores meals in a refrigerated compartment 20 and heats the meals in a microwave 100. Meals are passed into the microwave by opening a segmented door 110 located in the bottom of microwave 100 and raising a platform 170. Once a meal is loaded into the microwave, door 110 closes to separate the meal to be heated in microwave 100 from the refrigerated compartment 20. Door 110 has a panel or segment 112. The Examiner contends that segment 112 is a retention member. However, it is clear that door 110 and segment 112 function to retain the meal in microwave 100 where the meal is heated, not to maintain the item in a "freezer compartment maintained at a freezing temperature for storing frozen food" as required

by the claims. Therefore, Anderson does not disclose "at least one member ... retain[ing] a portion of said at least one item in the compartment maintained at a freezing temperature for storing frozen food." Anderson teaches away from the presently claimed retention member being used to retain the item in a freezer compartment to retain a food item in the freezer compartment which is prior to dispensing from the freezer compartment and after removal of the cartridge from the freezer compartment, such as when reloading a fresh cartridge of food items, for example.

The Examiner notes that in Anderson microwave 100 is disposed within cabinet 12. However, structural layer 102, absorptive layer 104, and door 110 (including segment 112) function to separate microwave 100, where food is heated, from refrigerated compartment 20, where food is kept cold (door 110 being closed while microwave 100 is turned on to heat the food).

The other art relied on does not remedy the deficiencies of Anderson. Kurokawa is directed to a dispenser for pills and candies having a tubular member or refill 10. Covington is directed to a reagent slide dispenser. Kaufman discloses a medical delivery system. Mishina discloses a vending machine for dispensing cylindrical and tetrahedron-shaped objects. Neither Kurokawa, Covington, Kaufman nor Mishina disclose, suggest or provide a reason for a retention member that retains a food item in a freezer compartment maintained at a freezing temperature after the item is removed from a cartridge and when a cartridge is removed from the freezer compartment. Consequently, all of the claims are unobvious and patentable over all of the cited references.

CONCLUSION

In view of the foregoing, all of the rejections have been overcome and claims 1, 4-12, and 18-34 are allowable. An early indication of allowance is solicited.

Respectfully submitted,

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